IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA:

Criminal Revision No.195 of 2004.

Date of Decision: 21.04.2011.

Harbans Lal …Petitioner.

Versus:

State of H.P. …Respondent.

Coram:

The Hon'ble Mr. Justice Dev Darshan Sud, Judge.

Whether approved for Reporting?[1] No.

For the petitioner : Mr. Dibender Ghosh, Advocate.

For the respondent : Ms. Shubh Mahajan, Dy. A.G,

Dev Darshan Sud, J(Oral) .

The petitioner was charged for offences under Sections 279, 337 and 201 of the Indian Penal Code and Sections 185 and 196 of the Motor Vehicles Act, 1988.

2. The case of the prosecution is that on 28th April, 1999, Sachin Gupta (PW-1) complaint with the police that on the date, when he was driving a Maruti Car bearing registration No.HP-09-4600, the jeep, which was driven by the petitioner herein, rammed his car as a result of which this witness (PW-1), Santosh Kalia and Pramod Kalia (PW-2) have sustained injuries. Which the Doctor opined to be simple injuries. On the other evidence on record, which consisted by PW-2/Pramod Kalia, who was travelling in the vehicle and the police witnesses, the learned Court below convicted the petitioner for offences under Sections 279, 337 and 201 of the Indian Penal Code, but acquitted them for offences under Sections

[1] **Whether reporters of Local Papers may be allowed to see the judgment?** Yes.

185 and 196 of the Motor Vehicles Act, 1988. The petitioner appealed against this conviction and the learned Fast Track Court, Hamirpur, after reassessing/re-appreciating the evidence dismissed the appeal. The petitioner now challenges his conviction in this revision. Learned counsel appearing for the petitioner urges that the Appellate Court wrongly relied upon the evidence of Sachin Gupta (PW-1) and Pramod Kalia (PW-2) as they were interested witnesses. This submission requires to be rejected out right. There is nothing on record to establish that the evidence has been fabricated or there is any motive for these persons to implicate the accused falsely.

3. The second submission made is that there is no corroboration to the evidence of Sachin Gupta (PW-1), who is injured in this case and there is no evidence to establish that the vehicle was being driven in a rash and negligent speed. Adverting to this submission, what I find is that the learned Courts below have rightly appreciated the evidence holding that the petitioner herein was driving the vehicle on the wrong side of the road and there is no other evidence which is required to establish the fact of rashness and negligence. Both the submissions are, therefore, rejected.

4. The third submission made on behalf of the learned counsel for the petitioner is that the sentence is harsh. The petitioner at the time of filing revision is 48 years and has now to look after his family. His detention is in Jail will cause hardship to his entire family.

5. The menace of rash and negligent driving requires to be curbed. However, what I find from the facts of the case is

that it has come up for revision after 8-10 years from the time when the alleged incident has taken place. The accident occurred in the year 1999 and now after a period of 12 years, this case has been taken up for hearing. Passage of time does not mitigate the severity of the crime, however taking into consideration the facts and circumstances of the case, it would be in the fitness of things that the sentence of imprisonment imposed upon the petitioner is set aside and he is directed to pay compensation to all the three injured, namely, Sachin Gupta (PW-1), Pramod Kalia (PW-2) and Santosh Kalia. It is accordingly directed that the petitioner herein shall deposit a sum of ₹ 21,000/- with the learned trial Court within a period of three months from today. This amount of compensation shall be paid equally i.e. ₹ 7,000/- to each of the injured whose names have been mentioned above. In case, non deposit of this amount the sentence of imprisonment shall revive and the petitioner shall serve out the sentence of imprisonment as imposed by trial Court and it is directed accordingly.

6. This judgment shall not be considered as a precedent in any other case and it confines to its own case. The petition is disposed of.

(Dev Darshan Sud),
Judge.

April 21, 2011
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